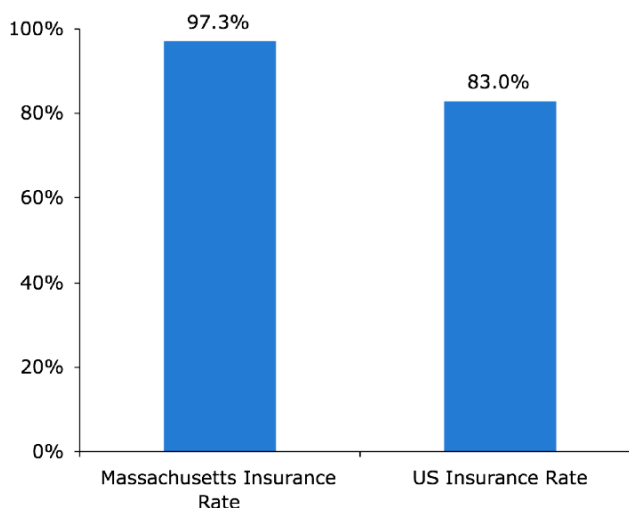


# Analysis in Brief: Employers and Massachusetts Health Reform

## Introduction

Massachusetts' landmark 2006 health reform law ushered in a series of new policies designed to promote access to health insurance so that the state could achieve near-universal health insurance coverage of its residents. Among the key provisions of this pioneering legislation was the requirement that adult residents obtain and maintain health insurance if it is affordable to them. Additionally, several new requirements for employers in Massachusetts were created. Three years into the reform, more than 97% of the state's residents are insured,<sup>1</sup> while national rates of insurance coverage continue to decline.<sup>2</sup> Massachusetts' high rate of insurance coverage is due in large part to the continued engagement of the Massachusetts employer community. This *Analysis in Brief* attempts to illuminate the key role that Massachusetts employers have played in the expansion of health insurance coverage through health reform.

**Massachusetts versus US Rates of Insurance Coverage, 2009**



Source:  
DHCFP Massachusetts Health Insurance Survey, 2009.  
KCMU/Urban Institute analysis of 2009 ASEC Supplement to the CPS.

## Key Findings

- Policies enacted by Massachusetts health reform, including several that directly affect employers (e.g., the Fair Share Contribution and the Section 125 requirement) have contributed to Massachusetts having the highest insurance coverage rate in the nation at more than 97%.
- Prior to the passage of health reform in Massachusetts, employers in Massachusetts were more likely than employers in other states to offer health insurance (70% compared to 60%). Since reform, the Massachusetts employer offer rate has increased to 76%, despite the economic downturn, while nationally employer offer rates have remained flat.

<sup>1</sup> Massachusetts Household Insurance Survey (MHIS) 2009, Division of Health Care Finance and Policy. For more information, visit: [www.mass.gov/dhcfp](http://www.mass.gov/dhcfp) and click on Analyses and Publications.

<sup>2</sup> The Uninsured: A Primer, October 2009, Kaiser Family Foundation. Available at: <http://www.kff.org/uninsured/upload/7451-05.pdf>

- The vast majority of employers comply with the Fair Share Contribution policy – through 2008, more than 95% have been determined to have made a “fair and reasonable contribution” and therefore were not required to make a Fair Share Contribution of \$295 per Full-Time Equivalent employee. Approximately \$18 million has been collected in Fair Share Contribution liability for filing years 2007 and 2008.
- To date, no employers have been determined liable for a Free Rider Surcharge, meaning that no employers were found to both meet the cost threshold and be non-compliant with the requirement that they offer a Section 125 plan. Nearly 90% of all employers with 11 or more FTEs reported via HIRD data that they have a Section 125 plan in place.
- Participation in group health plans that are offered by employers has risen among eligible employees.
- Employers that offer insurance are contributing less to the cost of insurance, which means that employees’ costs are increasing.
- As a result of the trend towards shifting more costs to workers, employees’ median monthly share of individual plan premiums increased by \$15 between 2007 and 2009 (15%). The median amount paid by employees for individual coverage in 2009 was \$116, which is nearly three times as high as the median employee contribution in 2001.

## **Brief Overview of Massachusetts Health Reform Policies**

The lynchpins of Massachusetts’ health reform law (Chapter 58 of the Acts of 2006) are: (1) the individual mandate, which requires adults in the state to be insured if affordable insurance is available to them; (2) the merging of the individual and small group insurance markets; (3) the expansion of MassHealth, Massachusetts’ Medicaid program (4) the creation of the Health Connector, which administers Commonwealth Care, a new subsidized health insurance program for low-income residents, and functions as an insurance exchange that serves as a purchasing vehicle for individuals and small businesses; and (5) a set of new requirements of employers, including the Fair Share Contribution requirement and the requirement that businesses establish and maintain Section 125 (Cafeteria) Plans.

## **Massachusetts’ General Business Landscape**

The state’s \$365 billion economy<sup>3</sup> is made up of approximately 188,000 employers<sup>4</sup> and is driven largely by professional and service-based industries. The population has greater levels of education than the national average<sup>5</sup> and the per capita personal income in 2006 was \$47,702, the 4th highest in the nation. Sectors vital to the Massachusetts economy include higher education, biotechnology, finance, health care, and tourism. The vast ma-

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<sup>3</sup> The United States Bureau of Economic Analysis. Available at: <http://www.bea.gov/regional/gdpmap/>

<sup>4</sup> Massachusetts Division of Unemployment Assistance, 2009.

<sup>5</sup> Percent of People 25 Years and Over Who Have Completed a Bachelor's Degree, American Community Survey, 2004.

jority of firms in the state are small – approximately 88% of Massachusetts firms have ten or fewer full-time equivalent employees.<sup>6</sup>

## **Pre-Reform Employer-Sponsored Insurance**

In 2005, prior to the passage of health reform in Massachusetts, employers in Massachusetts were more likely than employers in the nation to offer health insurance (70% compared to 60%). This substantial level of employer involvement in covering residents allowed the health reform policies of 2006 to build on an already-strong foundation of employer-sponsored insurance in its climb towards near-universal coverage.

## **Employer Requirements Under Health Reform**

### ***1. Fair Share***

*What it is:* The Fair Share Contribution (FSC) is a policy that aims to mirror Massachusetts' landmark health reform law's guiding principle of shared responsibility. This policy seeks to ensure that all employers with 11 or more full-time equivalent employees (FTEs) contribute to the costs of the health care of the overall Massachusetts workforce. The policy requires employers determined to not be making a "fair and reasonable" contribution towards the cost of coverage for its full-time workers to pay a nominal contribution called the Fair Share Contribution, an amount statutorily capped at \$295 per FTE per year.

*How it works:* In 2006, the standard was set such that all employers with 11 or more FTEs would be considered to have made a "fair and reasonable contribution" if they could prove 25% participation in a group health plan or that they were making an offer to contribute 33% towards the cost of individual plans for full-time workers that worked at least 90 days. Effective January 1, 2009, those standards were revised and larger employers (those with 51 or more FTEs), were then required to meet both the participation and contribution standards. Smaller employers are still subject to the original requirements.

*Results:* For the filing year 2007 (based on October 1, 2006 through September 30, 2007), 95.8% of employers had made a "fair and reasonable contribution" and therefore were not required to make a Fair Share Contribution of \$295 per FTE. This resulted in a total \$10.4 million of revenue. The following year, 96.7% of employers were able to meet the standards, resulting in \$7.1 million in revenue.<sup>7</sup> The results of the first two years of the policy indicate that Massachusetts employers were already making substantial contributions to the costs of covering their workforces.

### ***2. Section 125 and Free Rider Surcharge***

*What it is:* Employers with 11 or more FTEs are required to establish and maintain a Section 125 Plan (or a "Cafeteria Plan"). The use of Section 125 Plans by employers allows

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<sup>6</sup> Massachusetts Division of Unemployment Assistance, 2009.

<sup>7</sup> Fair Share Contribution Data and Trend Analyses Filing Years 2007 and 2008. Division of Health Care Finance and Policy, 2009. Available at: [www.mass.gov/dhcfp](http://www.mass.gov/dhcfp).

employees to pay their contributions towards health insurance using pre-tax income. Workers that are not eligible for employer-sponsored insurance are also able to realize savings by purchasing individual health insurance plans using pre-tax income. Employers that do not maintain a Section 125 Plan may be subject to the Free Rider Surcharge, which is intended to promote compliance with the Section 125 requirement. Companies without Section 125 plans whose workers access medical care through the state's Health Safety Net may be assessed a penalty between 10% and 55% of the cost of any medical services that exceed \$50,000. The state (via the Health Connector) has attempted to simplify the process for an employer to establish a Section 125 plan.

*How it works:* The Division of Health Care Finance and Policy matches health care service claims of users of the Health Safety Net to wage data available through the Department of Revenue (DOR) to determine if users who reached the threshold cost were employed at the time of receipt of the health care services. The data regarding employment is then matched with Health Insurance Responsibility Disclosure (HIRD) data that indicates whether the employer has a Section 125 Plan to exempt them from possible Free Rider penalties.

*Results:* For 2008, the first year of full data that was available, there were no employers that met the cost threshold to be liable for a Free Rider Surcharge and did not comply with the Section 125 requirement. Nearly 90% of employers with 11 or more FTEs reported via HIRD data that they have a Section 125 plan in place.<sup>8</sup>

### ***3. Other Policies that Indirectly Affect Employers:***

*A. Minimum Creditable Coverage:* The requirement that all adult residents be covered by health insurance includes a standard that the health insurance of a Massachusetts resident must meet. This "minimum creditable coverage" (MCC) standard requires that coverage include preventative and primary care, emergency services, hospital stays, outpatient services, prescription drugs, and mental health services.<sup>9</sup> When individuals file their taxes with the Department of Revenue, they indicate whether or not the health insurance coverage they had during the tax period met these standards. The health insurance company issues confirmation of MCC-compliance for the enrollee's plan to all its enrollees prior to tax filing due dates. Employers are not required to offer MCC-compliant plans, for the purposes of the Fair Share Contribution or any other policy. However, as employers become aware that their workers are held to the MCC standard per the individual mandate, many employers that had previously offered plans that were not MCC-compliant may opt to offer new plans that meet the MCC standards.

*B. Individual Mandate:* Health reform requires most adult residents 18 and older with access to affordable health insurance to obtain it. Starting in 2008, adult tax filers who could afford to purchase health insurance but who failed to do so were subject to penalties for each month of non-compliance in the tax year. While employers play no role in

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<sup>8</sup> 2008 HIRD Filing Data, via Division of Unemployment Assistance database.

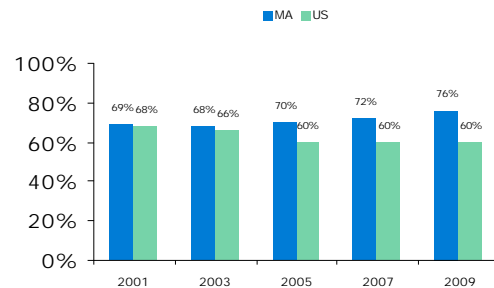
<sup>9</sup> Connector's Regulation 956 CMR 5.00: Minimum Creditable Coverage. Available at: [www.mahealthconnector.org](http://www.mahealthconnector.org)

the administration of the individual mandate, the policy has likely influenced the number of employees that choose to participate in employer-sponsored health plans.

### Major Trends in Employer-Sponsored Health Insurance Since Reform<sup>10</sup>

The most notable trend among Massachusetts employers with regard to the impact of health reform is that the percentage of Massachusetts employers that offer health insurance to their employees is rising, while the national rates of employers offering coverage have remained flat since 2005. 76% of Massachusetts employers in 2009 offer health insurance to workers, whereas just 60% of national employers do. The gap between Massachusetts employers and national employers has been widening since 2001, when there was just one percentage point between Massachusetts and the United States (69% to 68%, respectively).

**Employers Offering Health Insurance: Massachusetts Compared to the Nation**

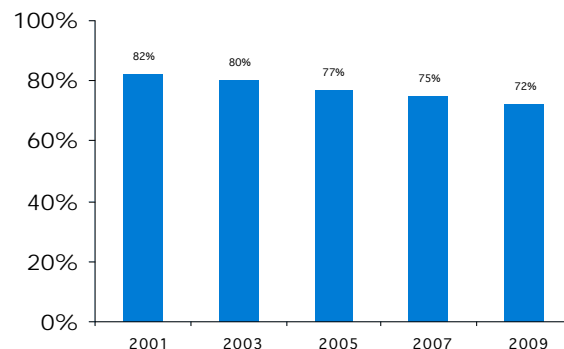


Given the economic recession that began in 2008, it is remarkable that Massachusetts employers have scaled up the rates at which they offer insurance to their workers. The most significant growth in rates of offer were among employers with between 11 and 50 employees (where offer rates jumped from 88% in 2007 to 92% in 2009), possibly as a result of the Fair Share Contribution requirement which affects employers with 11 or more FTEs.

Participation in group health plans that are offered by employers has also risen among eligible employees. In 2009, 80% of employees eligible for their employer's health plan chose to participate, up from 78% in 2007. It is likely that this small uptick in participation in group health plans is a result of the individual mandate that went into effect in late 2007.

The nature of employer-sponsored insurance in Massachusetts continues to be affected by the rapidly escalating cost of health insurance coverage. In 2009, the median monthly premium increased 7% in 2009 compared with 2007. Since 2001, the median monthly premium for individual health plans has increased by 76%. The burden of this rate of increase is carried by both employers and, through cost sharing and out-of-pocket expenses, their em-

**Employer Percentage Contribution to Individual Plan Premiums**



<sup>10</sup> Massachusetts Employer Survey (MES), 2009. Division of Health Care Finance and Policy. For more information, visit: [www.mass.gov/dhcfp](http://www.mass.gov/dhcfp) and click on "Publications and Analyses."

employees. In addition to decreasing their contribution to employee premiums, many employers have also cut back on benefit levels.

Although more Massachusetts employers are choosing to offer health insurance to their workers, they are contributing less towards the cost of insurance. In 2009, the median employer contribution to individual workers' health care premiums was 72%, down from 75% in 2007.

As a result of the trend towards shifting more costs to workers, employees' median monthly share of individual plan premiums increased by \$15 between 2007 and 2009 (15%). The median amount paid by employees for individual coverage in 2009 was \$116, which is nearly three times as high as the median employee contribution in 2001.

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